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### **Political Institutions and Public Policy: The Co-Decision Procedure in the European Union and the Reform of the Common Agricultural Policy**

*Christophe Crombez and Johan F.M. Swinnen*



**Katholieke Universiteit Leuven**

LICOS Centre for Institutions and Economic  
Performance  
Waaistraat 6 – mailbox 3511  
3000 Leuven

BELGIUM

TEL: +32-(0)16 32 65 98

FAX: +32-(0)16 32 65 99

<http://www.econ.kuleuven.be/licos>

**Political Institutions and Public Policy:**  
**The Co-Decision Procedure in the European Union**  
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Christophe Crombez

Johan Swinnen

University of Leuven (KUL)  
&  
Stanford University

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**Abstract**

In this paper we study the implications of the introduction of the co-decision procedure for the European Union's Common Agricultural Policy and its reform. We use a game-theoretical model of the legislative procedures in the European Union and show that the move from consultation to co-decision implies a shift of power from the Commission to the European Parliament. The implications for the Common Agricultural Policy depend on the configuration of preferences, the location of the status quo, and the bargaining powers in the Conciliation Committee. If the member states and the European Parliament are more opposed to reform than is the Commission, the introduction of co-decision reduces the prospects for reform of the European Union's Common Agricultural Policy.

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## **1. Introduction**

2011 is a crucial year for the future of the Common Agricultural Policy (CAP) of the European Union (EU). A new reform is being prepared. Past reforms of the CAP have been extensively studied and analyzed. A key issue in the current discussions is the impact of changes in the EU decision-making structure. The Treaty of Lisbon (2007) changed the rules under which agricultural policy is set in the EU. Specifically, it altered the influence of the European Parliament (EP) on the Common Agricultural Policy (CAP) in two important ways: it expanded the EP's role in the budgetary process; and it modified the legislative procedure that applies to the CAP, introducing co-decision to replace consultation.<sup>1</sup> In this paper we focus on the latter modification.

Co-decision was first introduced in 1992 in a number of policy areas other than the CAP. To this date this move represents the most important step in the EP's process of legislative empowerment. Co-decision formally recognizes the parity between the Council and the EP as legislative bodies, granting the latter a continued involvement in the legislative process. This is an important difference with the consultation procedure, in which EP intervention is only consultative in a specific and defined stage of the procedure. The application of co-decision to the CAP may have important effects on the possibility of CAP reforms. In earlier CAP reforms political and institutional changes also played an important role (Swinnen, 2008).

The objective of this paper is to evaluate the implications of the adoption of co-decision for future CAP reform. Several studies have evaluated the increasing influence of the EP on EU policy outcomes. Some provide a descriptive account of this increasing influence. They consider how treaty modifications have affected the distribution of powers among EU institutions, and then explain how the EP has been able to exploit its new powers to increase

its impact on legislation (Shackleton, 2000, Corbett et. al, 2003, Maurer, 2003). Others approach the problem analytically. For example, they consider the number of amendments successfully proposed by the EP under different procedures as a measure of its legislative power (Earnshaw and Judge 1993, 1997; Judge and Earnshaw, 1994; Moser, 1996, Kreppel, 1999). However, none of these studies focus on the role of the EP in the CAP.

An empirical study of the EP's influence on the CAP and the likelihood of CAP reform under co-decision requires a large database on different issues involved in the CAP and the way they have been settled under consultation and co-decision. Since co-decision has only been applied to the CAP since December 2009, we cannot compare the numbers of successful EP amendments on the CAP under consultation and co-decision to evaluate the EP's powers under co-decision and the likelihood of CAP reform. At this point there is merely some anecdotal evidence that the EP is behaving differently under co-decision, moving away from position-taking and toward responsible policy-making, and acquiring more influence in the process.

For these reasons we use a theoretical approach based on spatial models. Such models explain policy outcomes as a function of the legislative procedures, the preferences of the political actors and the location of the status quo (Steunenberg, 1994; Tsebelis, 1994; Crombez 1996, 1997, 2000). Spatial models have also been applied to the CAP to study how the institutional setting increases or depresses the likelihood of reform (de Gorter et al., 1998; Pokrivcak et al. 2001; Henning and Latacz-Lohmann, 2004; Pokrivcak et al. 2006).

Spatial models are particularly effective in reproducing the conditions that a procedure imposes for the adoption of a specific policy. Moreover, they make it possible to evaluate the room for policy reform the procedure allows, and provide valuable insights in the powers of the actors involved in the procedure. Furthermore, the different models' results are easily comparable.

To evaluate the implications of the adoption of co-decision for the CAP we apply two spatial models proposed by Crombez (1996, 2000) to the CAP. More specifically, we highlight the changes imposed by the new procedure in terms of the room for policy reform and the institutions' powers. We evaluate the impact of co-decision on CAP decision-making by focusing on policy scenarios that are suitable for the CAP.

This paper is organized as follows. In section two we discuss the main differences between consultation and co-decision focusing on the effects of the procedures on the formal roles of the institutions. In section three we present the main results of the spatial models for consultation and co-decision, and apply them to the CAP. Section four discusses the implications of the introduction of co-decision for CAP reform. We conclude with some final remarks in section five.

## **2. The Consultation and Co-decision Procedures**

Before the Treaty of Lisbon, the CAP's legislative procedure was the "consultation" procedure. Consultation starts with a legislative proposal presented by the Commission. The Commission submits the proposal to the EP and the Economic and Social Committee (ESC). Those bodies have a consultative role. The ESC expresses its opinion over the proposed legislation, whereas the EP can propose amendments. The EP amendments are evaluated by the Commission which may or may not include them in its proposal.

The proposal is then submitted to the Council. For the evaluation of the proposal the Council works with its Special Committee on Agriculture, the body in which the member states (MSs) discuss technical rather than political aspects of agricultural policy. This Committee plays the same role as the Committee of Permanent Representatives, which consists of the MSs' Ambassadors to the EU, does in other policy areas. The Council votes on

the proposal under qualified majority rule. Each MS can propose amendments which are voted under unanimity rule.<sup>2</sup>

In sum, under consultation the Commission formulates proposals that need the support of a qualified majority in the Council for adoption. The Council can amend proposals by unanimity. The EP and ESC are consulted, but their opinions and amendments can be ignored. For that reason we do not further consider their roles in our analytical model of the consultation procedure.

The sequence of events under consultation can then be represented as in Figure 1. First, the Commission proposes a policy. Next, the MSs can propose amendments. We assume for simplicity that only one MS  $k$  is selected to propose an amendment, and that it can decide whether or not to use that opportunity. If it does propose an amendment, the amendment subsequently needs unanimity in the Council for adoption. Finally, the MSs can approve the (amended) proposal by qualified majority. If it is approved, it becomes EU law. Otherwise the status quo prevails.

--- Figure 1 about here ---

The situation is very different under the co-decision procedure, which was first introduced by the Treaty of Maastricht in 1992. The use of co-decision was extended by the Amsterdam, Nice and Lisbon Treaties, in 1997, 2001 and 2007.<sup>3</sup> It applies to the CAP since the ratification of the Lisbon Treaty in 2009.

Under co-decision a Commission proposal is submitted to the Council and the EP for a first reading. The first reading is similar to consultation: the EP can propose amendments, the Commission can subsequently choose whether to include them in its proposal, and finally the Council votes on the proposal. The Council can approve the proposal by qualified majority,

whereas unanimity is required for amendments. If the EP and the Council pass the same version of the proposal, the proposal is adopted. If they pass different versions, however, the process moves on to a second reading.

The second reading is similar to the first. Once again, if the EP and the Council pass the same version of the proposal, it is adopted. If they pass different versions, however, a Conciliation Committee is convened in what is usually referred to as the third reading. In the Conciliation Committee representatives of the EP and the Council directly negotiate a compromise, referred to as a “joint text”. The joint text needs to be approved by the EP and a qualified majority in the Council for adoption. If conciliation fails to reach an agreement, the procedure is at an end and no proposal is adopted.

In sum, under co-decision the Commission formulates proposals that need the support of the EP and a qualified majority in the Council for adoption. Moreover, the EP and a qualified majority can together amend proposals in the Conciliation Committee.<sup>4</sup>

Figure 2 summarizes the sequence of events under co-decision. First, the Commission formulates a proposal. Next, the EP gets to vote on the proposal, and then the MSs vote on it (by qualified majority). These two steps are considered as the first reading. The second reading is analytically irrelevant, because it is similar to the first. For that reason it is not represented in Figure 2. Subsequently, the Conciliation Committee meets and negotiates a joint text. For simplicity we assume that the EP proposes the joint text.<sup>5</sup> In reality the MSs could also be formulating it, and there may be different rounds of proposals and amendments, but the results would not be significantly different. Finally, the MSs vote on the joint text. The joint text becomes EU policy if it is approved by a qualified majority. Otherwise the status quo prevails.

--- Figure 2 about here ---

Hence, compared to the consultation procedure, the co-decision procedure enhances the EP's role in two important ways. First, it gives the EP a veto right on legislation. At no stage in the process can a proposal be adopted without the consent of the EP. Second, the EP and the Council can together amend Commission proposals. In contrast to the EP, with the shift to the co-decision procedure, the Commission lost much of its formal influence over the legislative process, especially in the Conciliation Committee.

### 3. The Model

We now develop a formal spatial model of CAP decision making under consultation and co-decision. The policy space  $P \subseteq \Re$  consists of one dimension that corresponds to a policy issue. Alternative policies can thus be represented by points in a one-dimensional policy space.<sup>6</sup> The policies could consist of different CAP subsidy levels, for example. Decision making can then be thought of as choosing a point in the policy space. The political actors are: the MSs in the Council; the Members of the European Parliament (MEPs); and the Commissioners. They have Euclidean preferences over EU policy  $p_{EU} \in P$ . Actor  $j$  then has the following utility function:  $U_j(p_{EU}) = -(p_j - p_{EU})^2$ , where  $p_j \in P$  is actor  $j$ 's ideal policy. That is, actor  $j$  has an ideal policy  $p_j$  and prefers policies that are closer to, rather than farther away from, its ideal policy.

The EP and the Commission use simple majority rule and have no restrictions on amendments. They can thus be represented as unitary actors with ideal policies equal to the ideal policies of the median MEP  $p_{EP}$  and median Commissioner  $p_C$ , respectively.<sup>7</sup> The median MEP and all MEPs on her left (right) prefer the median MEP's ideal policy to any policy right (left) of it. Under majority rule the median MEP's ideal policy thus defeats any other policy in a pairwise comparison. A similar argument holds for the Commission. The



analysis can thus be simplified by focusing on the median Commissioner and the median MEP.

The Council is not represented as a unitary actor because it uses qualified majority or unanimity rule. A qualified majority in the Council consists of 255 out of a total of 345 votes.<sup>8</sup> Nonetheless, the analysis can be simplified by focusing on the MSs that are pivotal under the qualified majority rule. MS  $a$  that is pivotal for a move to the right has an ideal policy to the left of the MS with the median vote. In particular, MS  $a$  is the MS with the 91st vote (from the left). MS  $a$  and the MSs to its right then have 255 votes, and the MSs to its right do not constitute a qualified majority without MS  $a$ . The MS  $b$  that is pivotal for a move to the left is the MS with the 255th vote. Under unanimity rule the two most extreme MSs, the leftmost MS  $l$  and the rightmost MS  $n$ , are pivotal for moves to the right and left respectively.

The sequence of events in CAP decision making was discussed in the previous section and depends on the legislative procedure that applies. In our analysis, we assume complete and perfect information. The actors, i.e., the MSs, the EP and the Commission know each other's preferences, the location of the status quo  $q$ , the impact of proposed policies, the sequential structure of the models, and the actions taken in prior stages of the models.

An equilibrium consists of a strategy for each actor. Strategies tell the actors what actions to choose in the relevant stages of the procedure, given the actions taken in prior stages. The equilibrium concept is subgame perfect Nash. In a Nash equilibrium, no actor can achieve a higher utility by choosing another strategy, given the other actors' strategies. In a subgame perfect Nash equilibrium, actors can do no better than stick to their strategies in any stage of the procedure, even if an actor deviated from the equilibrium strategy in a prior stage.

The outcomes of the models are the policies that are adopted under the different procedures, given the preferences of the players and the location of the status quo. For the purposes of our analysis we will focus on the main results of the models in terms of the

potential for policy reform and the actors' powers. In the next subsections we first present the results for the consultation procedure, and then discuss co-decision.

### 3.1. Consultation

In the last stage of the consultation procedure the MSs thus vote on the proposal. The proposal needs qualified majority support to be adopted. If the status quo is to the right of MS  $b$ , as in Figure 3, MS  $b$  is pivotal. The set of proposals that can be adopted in the last stage, the “qualified majority set”, is then the set  $[2p_b - q, q]$  of policies which MS  $b$  prefers to the status quo. In Figure 3 the Commission, MSs  $1$ ,  $a$  and  $b$ , and the EP are all to the left of the status quo. They all want lower agricultural subsidies, for example. The MS  $n$  wants higher subsidies, however.

--- Figure 3 about here ---

Not all the proposals in the qualified majority set necessarily make it through the second and third stages of consultation, however. Amendments can be approved if all MSs prefer a policy to the left (right) of the proposal. For a proposal in the qualified majority set to get through the second and third stages of consultation it thus also needs to be in the “amendment set”  $[p_1, p_n]$ , between the ideal policies of the two most extreme MSs. In Figure 3 all policies that are in the qualified majority set are also in the amendment set.

Under consultation the Commission proposal thus has to fulfill two requirements for adoption. First, it needs to be in the set of policies that are preferred to the status quo by a qualified majority. Second, it has to be located between the ideal policies of the two extreme MSs. Suppose the Commission wants to lower CAP subsidy levels, for example. The Commission then needs to pay attention to the MS that is pivotal for such a lowering under

qualified majority rule. It can only reduce subsidies if this pivotal MS prefers such a lowering to the status quo, and can only go as far as this MS is willing to accept, that is, down to the level  $2p_b - q$  that makes that MS  $b$  indifferent to the status quo. Furthermore, the Commission cannot lower subsidies further than all MSs want ideally (lower than policy  $p_l$ ). Otherwise the MSs would amend its proposal.

In equilibrium the Commission successfully proposes the policy  $p_{EU}^{CS}$  that satisfies the two requirements mentioned above and is closest to its preferences. In Figure 3 this is its ideal policy. Its ideal policy is in the “consultation set”, the intersection of the qualified majority and amendment sets, and can thus be adopted under consultation. The result is summarized in Proposition 1.

**Proposition 1** *Under consultation the Commission successfully proposes the policy it prefers most from among the policies that are preferred to the status quo by a qualified majority in the Council and are located between the ideal policies of the two extreme MSs.*

**Proof:** *See Appendix*

Figure 4 shows how the equilibrium policy varies as a function of the location of the status quo. It illustrates the consultation procedure’s implications for EU policy making, the potential for policy reform and the institutions’ powers. In Figure 4 the equilibrium policies (on the Y-axis) predicted by the model are expressed as a function of the position of the status quo (on the X-axis). The function is represented by the bold lines. As in Figure 3 the Commission’s ideal policy  $p_c$  is located to the left of the ideal policies  $p_a$  and  $p_b$  of the MSs  $a$  and  $b$  that are pivotal under qualified majority rule. The EP’s ideal policy  $p_{EP}$  is to the right of those policies. This configuration of preferences is consistent with a situation in which the

Commission wants a lower CAP subsidy level than do the pivotal MSs, whereas the EP wants a higher subsidy level.

--- Figure 4 about here ---

In two intervals in Figure 4, intervals II and III, the equilibrium policy can be found on the diagonal line through the origin. In those intervals the status quo is maintained. That is, consultation does not lead to policy reform if the status quo is located in those intervals. In interval III the status quo is located between the preferred policies of the two pivotal MSs under qualified majority rule. MS *a* (*b*) is pivotal for a move to the right (left), but wants a policy that is to the left (right) of the policies in interval III. As a result the Council cannot agree on the direction of change. The status quo thus prevails in interval III. In the CAP this occurs, for example, when no qualified majority is in favor of lowering subsidies, and no qualified majority is in favor of increasing them either.

The status quo also prevails in interval II but for different reasons. In this case MS *a* and a qualified majority want a move to the right, but the Commission is to the left and thus prefers the status quo to a move to the right. For example, a qualified majority wants higher CAP subsidies, but the Commission wants to lower them. For that reason the Commission does not propose a move to the right. Moreover, the Council cannot amend a status quo proposal by the Commission, because MS *I* wants to move to the left, unlike the other MSs shown in Figure 3. The status quo thus prevails in interval II.

In the intervals where the outcome of the procedure is not the status quo the Commission has considerable powers. If the status quo is located at the extremes, as it is in intervals I and V, the Commission can successfully propose its ideal policy  $p_c$ . In interval I the status quo is to the left of the Commission's ideal policy, whereas MS *a* and a qualified

majority are to the right of the Commission. MS  $a$  and a qualified majority will thus vote in favor of the Commission's ideal policy. This situation would occur in the CAP if subsidies were very low, the Commission preferred higher subsidies, and the pivotal MSs wanted even higher subsidy levels.

In interval V the status quo is far enough to the right for MS  $b$  to prefer the Commission's ideal policy to the status quo. MS  $b$  and a qualified majority will thus vote in favor of the Commission's ideal policy. This corresponds to a situation in which CAP subsidies are very high, the MSs and the Commission want lower subsidies, and the pivotal MSs prefer the Commission's ideal level to the status quo.

In intermediate locations, in interval IV, MS  $b$  prefers the status quo to the Commission's ideal policy. So, the Commission cannot successfully propose its ideal. Nonetheless, it can move policy to the left, because MS  $b$  wants to move to the left. It thus successfully proposes the policy farthest to the left that MS  $b$  approves. This is the policy that makes MS  $b$  indifferent to the status quo. This corresponds to a situation in which the Commission wants to lower subsidies and a qualified majority in the Council wants that too, but the qualified majority does not want to lower subsidies down to the level that the Commission wants ideally. In that case the Commission moves subsidies down to the level that just gains qualified majority support.

In sum we can say the following about the Commission's powers under consultation. If no qualified majority wants to move in the same direction, the Commission cannot successfully propose a policy other than the status quo (as in interval III). The Commission can preserve the status quo, if a qualified majority in the Council wants to move in the opposite direction it wants itself (as in interval II). It can impose its ideal policy only if it is supported by a qualified majority (as in intervals I and V). This is the case for extreme status

quos. In other circumstances it can move policy in the direction it wants and obtain the policy that makes the pivotal MS indifferent to the status quo (as in interval IV).

The model also demonstrates that reform is not always possible, in particular in situations with intermediate positions of the status quo with respect to the ideal policies of the MSs and the Commission, that is, if the status quo is located between the ideal policies of the pivotal MSs  $a$  and  $b$  and the Commission. Either no qualified majority can then agree on change, or the Commission cannot agree with a qualified majority.<sup>9</sup>

### 3.2. Co-decision

In the last stage of the co-decision procedure the MSs vote on the joint text, as shown in Figure 2. The joint text needs qualified majority support to be adopted. If MS  $b$  is to the left of the status quo, as in Figure 3, the set of joint texts that can be adopted in the last stage is the set  $[2p_b - q, q]$  of policies MS  $b$  prefers to the status quo, the qualified majority set.

In the penultimate stage the EP proposes a joint text. It proposes the policy it prefers most from among the policies that are preferred to the status quo by a qualified majority. In Figure 3 the EP successfully proposes its own ideal policy.

When the EP and MSs vote on the Commission proposal in stages two and three of co-decision, they look ahead and compare the proposal to the joint text the EP will formulate in the next stage. The proposal is approved if the EP and a qualified majority in the Council vote in favor. They vote in favor, if they prefer the proposal to the joint text. This implies that they prefer it to the status quo, because the joint text is preferred to the status quo. However, there is no policy that the EP likes better than the joint text from among the policies a qualified majority prefers to the status quo. As a result the Commission cannot formulate a proposal that is different from the joint text and is preferred to it by the EP and a qualified majority. Thus the Commission can do no better than propose the joint text. Formally this is equivalent

to saying that it has no impact on policy under co-decision. In equilibrium the joint text then becomes EU policy  $p_{EU}^{CD}$  under co-decision.

In reality MSs may be proposing the joint text, and the EP and the MSs may amend proposed joint texts. Therefore the joint text that is adopted is not necessarily the policy the EP prefers most from among the policies a qualified majority prefers to the status quo. It may be the policy a MS prefers most from among the policies the EP and a qualified majority prefer to the status quo. The set of policies the EP prefers to the status quo is referred to as the “EP set”. In Figure 3 it is a subset of the qualified majority set.

In any case the joint text that is adopted, is preferred to the status quo by the EP and a qualified majority. Hence it is in both the qualified majority and EP sets. Moreover, no policy is preferred to it by the EP and a qualified majority. That is, it is in the “joint text set”, the set of policies that are located between the ideal policies of the EP and the MSs that are pivotal under qualified majority rule. If the joint text were not in the qualified majority and EP sets, it would not be approved. If it were not in the joint text set, an amendment would be proposed and approved. Agricultural subsidies, for example, can only be lowered as far as the EP and the pivotal MS are willing to accept. Furthermore, they cannot be reduced further than the EP and the pivotal MS want ideally.

In Figure 3 the joint text set is the set  $[p_a, p_p]$ . No policy is preferred to the policies in this set by the EP and a qualified majority. The EP (weakly) prefers policies to the right of the set, but there is no qualified majority for such a move. The joint text is in this set even if the EP does not propose it. If the EP does get to formulate the joint text, it can obtain its ideal policy. Its ideal policy is in the “co-decision set”, the intersection of the qualified majority, EP and joint text sets.

The precise location of the joint text within the joint text set depends on the bargaining powers of the institutions in the Conciliation Committee. To the extent that the Commission

has bargaining powers in the Conciliation Committee, even though it has no voting rights in the Committee, it can also affect EU policy, within the joint text set. This could occur, for example, in an incomplete information world in which the Commission has private information.

The result is summarized in Proposition 2.

**Proposition 2** *Under co-decision the equilibrium EU policy is preferred to the status quo by the EP and a qualified majority in the Council and is located between the ideal policies of the EP and the MSs that are pivotal under qualified majority rule. The exact location of the equilibrium policy depends on the relative bargaining powers in the Conciliation Committee.*

**Proof:** *See Appendix*

Figure 5 shows how the equilibrium policy under co-decision varies as a function of the location of the status quo for the same configuration of ideal policies as in Figure 4. The function is represented by the bold lines.

--- Figure 5 about here ---

Gridlock is an important feature of decision making under co-decision, as it was under consultation. In the context of our model gridlock refers to the status quo being maintained, whereas reform means a change away from the status quo. In intervals III and IV in Figure 5, the status quo is maintained. In interval III the status quo is located between the preferred policies of the two pivotal MSs under qualified majority rule. As a result the Council cannot



agree on the direction of change, and the status quo prevails in interval III. In interval IV the EP does not agree with a qualified majority on the direction of change: MS *b* and a qualified majority want a move to the left, but the EP wants a move to the right. The status quo thus prevails in interval IV as well.

In the other intervals the EP and a qualified majority do agree on the direction of change. If the status quo is located at the extremes, as in intervals I and V, the EP can successfully propose its ideal policy  $p_{EP}$ . In interval I the status quo is far enough to the left for MS *a* to prefer the EP's ideal policy to the status quo. In interval V the status quo is to the right of the EP's ideal policy, and MS *b*'s ideal policy is to the left of the EP's ideal policy. The EP will thus propose its ideal policy, and MS *b* and a qualified majority will vote in favor.

In intermediate locations, in interval II, MS *a* prefers the status quo to the EP's ideal policy. So, the EP cannot successfully propose its ideal. Nonetheless, it can move policy to the right, because MS *a* wants to move to the right. It thus successfully proposes the policy farthest to the right that MS *a* approves. This is the policy that makes MS *a* indifferent to the status quo.

Keep in mind that the precise location of the ultimate EU policy depends on the relative bargaining powers in the Conciliation Committee. If MS *b* had all the bargaining powers in the Conciliation Committee, it would successfully propose its ideal policy in an expanded interval I. In interval V it would propose its ideal or the policy that makes the EP indifferent to the status quo. Whatever the bargaining powers of the EP and MSs in the Conciliation Committee, the outcome is always between the ideal policies of the pivotal MSs and the EP.

The location of the status quo on the horizontal axis, relative the actors' preferences, is directly related to external changes that occur between two rounds of EU decision making. A

variety of changes, such as changes in market prices for food, production costs, environmental conditions, and EU enlargement, can affect the relative location of the status quo. Changes in preferences, as a result of EP elections, and the appointment of a new Commission and new MS governments, also affect the relative location. Without such changes the status quo cannot be outside the joint text set, and no new policy can be set. (Pokrivack, Crombez and Swinnen, 2006). A more significant change in external conditions implies a lower likelihood of gridlock, and more power for the EP under co-decision (as was the case for the Commission under consultation).

Summarizing we can say that under co-decision the Commission has lost much of its powers, because it plays no formal role in the Conciliation Committee. The EP, by contrast, has become a genuine co-legislator together with the Council. When there is considerable change in external conditions represented by the status quos in intervals I, II and V, the EP and the pivotal MSs can move EU policy considerably towards their ideal policies. The EP can block change against the will of a qualified majority in the Council (as in interval IV), but cannot move policy away from the status quo if no qualified majority agrees (as in interval III).

Gridlock is rather important and, not surprisingly, involves situations in which the EP cannot agree on the direction of change with a qualified majority, or a qualified majority cannot agree within the Council.

#### **4. Implications for CAP Reform**

We now combine the previous insights to derive implications of the introduction of co-decision for the CAP reform. In particular we study the effects on the extent of gridlock,

the location of EU policy, and the institutions' powers. Furthermore, we discuss how these effects depend on the preferences of the EP.

Under both legislative procedures there is gridlock if no qualified majority agrees on the direction of policy change. If there is no qualified majority in the Council in favor of CAP reform, it does not occur, whether it be under consultation or co-decision. The introduction of co-decision does not alter that.

However, there are differences as a result of the different powers the institutions have under the two procedures. Under consultation there is gridlock if the Commission does not agree with a qualified majority. This type of gridlock does not occur under co-decision. Instead, co-decision leads to gridlock if the EP does not agree with a qualified majority.<sup>10</sup> Whether there is more gridlock, and thus less CAP reform, under co-decision than under consultation then depends on the locations of the ideal policies of the Commission and EP relative to the ideal policies of the pivotal MSs.

First, suppose the EP and the Commission are both located between the pivotal MSs. Then the "gridlock interval", i.e. the set of status quos that cannot be changed, is the same under both procedures. It is the set  $[p_a, p_b]$  of policies between the ideal policies of the two pivotal MSs. There is gridlock, and thus no room for CAP reform, if no qualified majority agrees.

Second, suppose the EP (Commission) is located between the pivotal MSs, but the Commission (EP) is not. Then the gridlock interval is smaller under co-decision (consultation). In some instances the Commission (EP) does not agree with a qualified majority, which leads to more gridlock under consultation (co-decision). Under co-decision (consultation) CAP reform then does not occur only if the status quo is between the ideal policies of the pivotal MSs, whereas under consultation (co-decision) CAP reform is also

blocked if the status quo is between the ideal policies of the Commission (EP) and the closer pivotal MS.

Third, if neither the EP nor the Commission is located between the pivotal MSs, then the gridlock interval is smaller under co-decision (consultation) if the EP (Commission) is closer to the closer pivotal MS. Then there are fewer instances in which the EP (Commission) disagrees with a qualified majority, which leads to less gridlock and more opportunities for CAP reform under co-decision (consultation), assuming that all status quos are equally likely.

Figure 6 compares the equilibrium policies under consultation and co-decision, as a function of the location of the status quo, for the same configuration of preferences as in Figures 4 and 5. The broken line represents the equilibrium policy under consultation, whereas the solid line stands for the equilibrium policy under co-decision. For the specific configuration of preferences which we used to draw Figure 6, the gridlock interval is larger under co-decision than under consultation, because the EP is farther away from the closer pivotal MS than is the Commission.

--- Figure 6 about here ---

Whether gridlock does occur on a particular issue depends on the location of the status quo. If the Commission wants to reduce agricultural subsidies, for example, but the EP and a qualified majority want an increase, then there is gridlock under consultation, but the EP and a qualified majority may be able to push through an increase under co-decision. If the Commission and a qualified majority want to reduce subsidies, but the EP wants to increase them, there is gridlock under co-decision, but the Commission and a qualified majority are able to reduce subsidies under consultation.

If reform does occur, the extent of the reform depends on the location of the ideal policies and, under co-decision, the bargaining powers in the Conciliation Committee. If the Commission favors a larger reduction in agricultural subsidies than do the EP and a qualified majority, then the introduction of co-decision will result in a smaller cut. The same is true if the EP or the pivotal MS want a larger cut than does the Commission, but have little bargaining powers in the Conciliation Committee. If the EP has sufficient bargaining powers and wants a further reduction than does the Commission, or the MSs with bargaining powers want a further reduction, then the introduction of co-decision leads to a larger reduction in subsidies.

As far as the balance of powers between the institutions is concerned, our analysis shows a clear transfer of powers from the Commission to the EP and the MSs. Whether the EP benefits more from this transfer than the MSs and which MSs benefit more, depends on the location of their ideal policies and their bargaining powers in the Conciliation Committee. The transfer of power is particularly evident in situations with extreme status quos. In those situations the equilibrium policy depends on the bargaining powers of the EP and MSs in the Conciliation Committee. Moreover, the EP can impose the status quo and block unwanted reforms if it does not agree with a qualified majority on the direction of change.

We now study how the location of the EP affects the prospects for CAP reform. Suppose that the pivotal MSs and the Commission all want to move to the left and that the Commission wants to move farther than the pivotal MSs, as was the case in the previous figures. The EP then blocks CAP reform if it wants to move in the opposite direction away from the status quo, say, if it wants an increase in subsidies rather than a reduction. Assume for simplicity that the EP has all the bargaining powers in the Conciliation Committee. Then the EP obtains its ideal policy if it wants to move in the same direction as a qualified majority

and does not want to move farther than the pivotal MS is willing to accept. If it wants to move farther, it obtains the policy that makes the pivotal MS indifferent to the status quo.

These results are illustrated in Figure 7. The solid line represents EU policy under co-decision as a function of the position of the EP. We distinguish three intervals. Interval I is left of the policy  $2p_b - q$  that makes MS  $b$  indifferent to the status quo. In this interval the EP and a qualified majority want a move to the left, but the EP cannot propose its ideal policy because MS  $b$ , which is pivotal for a move to the left does not want to move that far left. The EP then successfully proposes the most leftist policy MS  $b$  accepts, policy  $2p_b - q$ . In interval II the EP successfully proposes its ideal policy, because the EP and a qualified majority want to move left and prefer the EP's ideal policy to the status quo. In interval III, right of the status quo, the EP blocks any move by the Council and there is gridlock. In this interval the EP wants a move to the right, whereas a qualified majority prefers a move to the left. The results would be similar if a MS had all the bargaining powers in the Conciliation Committee.<sup>11</sup>

--- Figure 7 about here ---

Figure 7 also compares the equilibrium policy under co-decision to the equilibrium policy under consultation. Under consultation a strongly pro-reform Commission successfully proposes the policy  $2p_b - q$  that makes MS  $b$  indifferent to the status quo, whatever the position of the EP. This is indicated by the broken line. Less reform-minded Commissions would propose less reform, in the same way as a less reform-minded EP proposes less reform under co-decision.<sup>12</sup>

The introduction of co-decision reduces the prospects for CAP reform if the EP wants less reform than does the Commission. The extent of reform also depends on the bargaining powers in the Conciliation Committee, however. Whether co-decision leads to more or less

reform than consultation thus hinges on who has bargaining powers in the Conciliation Committee. If the Commission is more pro-reform than are the EP and the MSs with bargaining powers, the use of co-decision reduces the extent of CAP reform.

## **5. Conclusions**

In this study we used spatial models of EU decision making to examine the effects of changes in the legislative procedure on CAP decision making. The move from the consultation to the co-decision procedure has led to a redistribution of formal legislative powers between the Commission and the EP. As pointed out in the literature, the Commission loses the formal powers it had under consultation. At the same time the EP gains legislative influence over the policy outcome. Formally, co-decision requires that the Council and the EP agree on a policy in order to positively close a co-decision dossier. This is the main difference with respect to consultation in which the EP exerts a consultative role with no direct influence over legislation.

The consequences of the move from consultation to co-decision depend on the preferences of the EP, the Commission and the MSs, the location of the status quo and the bargaining powers in the Conciliation Committee. If the EP and the MSs with bargaining powers in the Conciliation Committee are more (less) opposed to reform than is the Commission, the use of co-decision leads to less (more) reform. If both the Commission and the EP want more (less) reform than the pivotal MSs, the move to co-decision has little impact, and the little impact there is depends on the bargaining powers of the EP in the Conciliation Committee.





## Appendix

### Proof of Proposition 1: Equilibrium conditions under consultation

We assume for simplicity and without loss of generality that the status quo  $q = 0$ . We further assume that there is a qualified majority in favor of a move to the left ( $p_b \leq 0$ ). So, we consider leftward moves only. The analysis is analogous if there is a qualified majority in favor of a move to the right ( $p_a \geq 0$ ). If there is no qualified majority in favor of a move to the right or left, the status quo prevails.

- Stage four.
  - Suppose the proposal was not successfully amended. MS  $k$  then votes in favor of the proposed policy  $P_p$  if and only if it is closer to its ideal policy  $p_k$  than is the status quo. That is, if and only if  $U_k(P_p) \geq U_k(q) \Leftrightarrow |P_p - p_k| \leq |q - p_k|$ . Otherwise it votes against. The proposal is adopted if and only if MS  $b$  votes in favor, that is, if  $|P_p - p_b| \leq |q - p_b|$ . Otherwise the status quo prevails.
  - The same holds for the amendment, if the proposal was successfully amended in stages two and three.
  - In any case the outcome in stage four is in the qualified majority set  $[2p_b, q]$ .
- Stage three.
  - Suppose the proposal and the amendment would both be adopted in stage four. In stage three a MS then votes in favor of the amendment  $am$  if it is closer to the MS's ideal policy than is the proposal. The amendment is thus approved in stage three, if it is closer to all MSs' ideal policies than is the proposal.
  - Suppose the proposal would not be adopted in stage four, but the amendment would. In stage three a MS then votes in favor of the amendment if it is closer to the MS's ideal policy than is the status quo. The amendment is thus approved in stage three, if it is closer to all MSs' ideal policies than is the status quo.
  - Suppose the amendment would not be adopted in stage four. Then the MSs can do no better than vote against it in stage three. Thus, such an amendment is not approved in stage three.
- Stage two.

- Suppose the proposal would be adopted in stage four. An amendment can then be approved if there are policies that are closer to all MSs' ideal policies than is the proposal. This is the case if and only if the proposal is to the left (right) of all MSs' ideal policies. MS  $k$  then proposes as an amendment the policy it prefers most from among the policies that are closer to all the MSs' ideal policies than is the proposal. This amendment is approved in stage three and adopted in stage four. Moreover, it is such that there is no policy preferred to it by all MSs. That is, it is in the qualified majority set and in the amendment set  $[p_1, p_n]$ .
- Suppose the proposal would not be adopted in stage four. An amendment can then be approved if there are policies that are closer to all MSs' ideal policies than is the status quo. This is the case if and only if the status quo is to the right of all MSs' ideal policies. MS  $k$  then proposes as an amendment the policy it prefers most from among the policies that are closer to all the MSs' ideal policies than is the status quo. This amendment is approved in stage three and adopted in stage four. Moreover, it is such that there is no policy preferred to it by all MSs. That is, it is in the qualified majority set and in the amendment set.
- Stage one.
  - Whether or not the Commission proposes a policy that is in the qualified majority and amendment sets, the policy that is adopted is in those sets. The Commission then proposes the policy in the consultation set  $CS = [2p_b, 0] \cap [p_1, p_n]$  it prefers most.
  - The Commission's optimal proposal strategy is then as follows. If its ideal policy is right of the status quo ( $p_C > 0$ ) or right of MS  $n$ 's ideal policy, it proposes the status quo ( $P_p = 0$ ) or MS  $n$ 's ideal policy, whichever is most to the left. If its ideal policy is left of the policy  $2p_b$  that makes MS  $b$  indifferent to the status quo or left of MS  $l$ 's ideal policy, it proposes policy  $2p_b$  or MS  $l$ 's ideal policy, whichever is most to the right. Otherwise it proposes its ideal policy  $p_C$ .
- The Commission proposal is adopted and becomes the EU policy  $p_{EU}^{CS}$  under consultation.

## Proof of Proposition 2: Equilibrium under Co-decision

- Stage five.
  - When considering the joint text MS  $k$  votes in favor of the proposed policy  $jt$  if and only if it is closer to its ideal policy  $p_k$  than is the status quo. That is, if and only if  $U_k(jt) \geq U_k(q) \Leftrightarrow |jt - p_k| \leq |q - p_k|$ . Otherwise it votes against.
  - The joint text is adopted if and only if MS  $b$  votes in favor, that is, if  $|jt - p_b| \leq |q - p_b|$ . Otherwise the status quo prevails.
- Stage four.
  - The EP proposes as a joint text the policy it prefers most from among the policies that are preferred to the status quo by a qualified majority, the policies that are in the qualified majority set.
- Stages three and two.
  - The EP and the MSs vote in favor of the Commission proposal if they prefer it to the joint text. The proposal is adopted if the EP and a qualified majority prefer it to the joint text.
  - A proposal that is preferred by a qualified majority to the joint text, which is preferred to the status quo by a qualified majority, is also preferred to the status quo by a qualified majority.
  - Therefore, there is no proposal preferred to the joint text by the EP and a qualified majority, except the joint text itself. If there were such a proposal, the EP would propose it as a joint text.
- Stage one.
  - As a result the Commission can do no better than to propose the joint text. This proposal is adopted and becomes the EU policy  $p_{EU}^{CD}$  under co-decision.

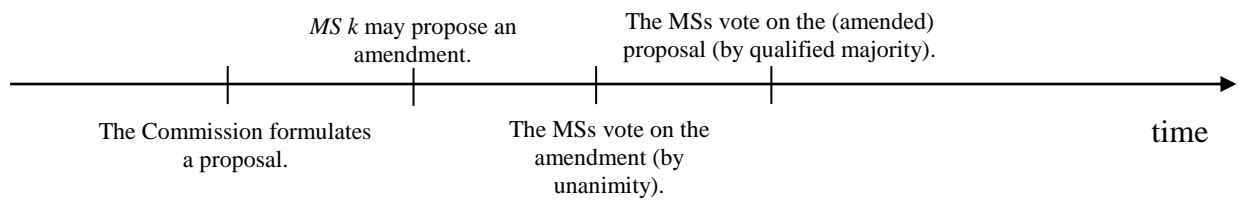
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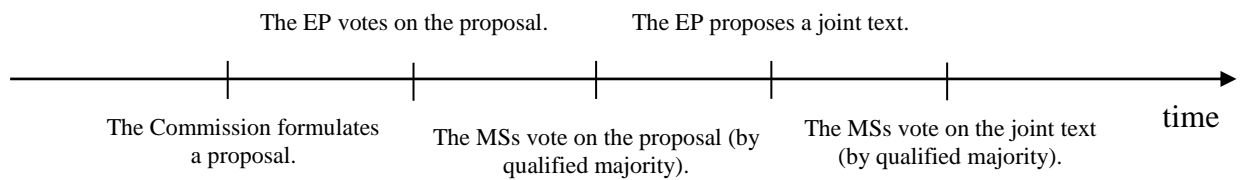
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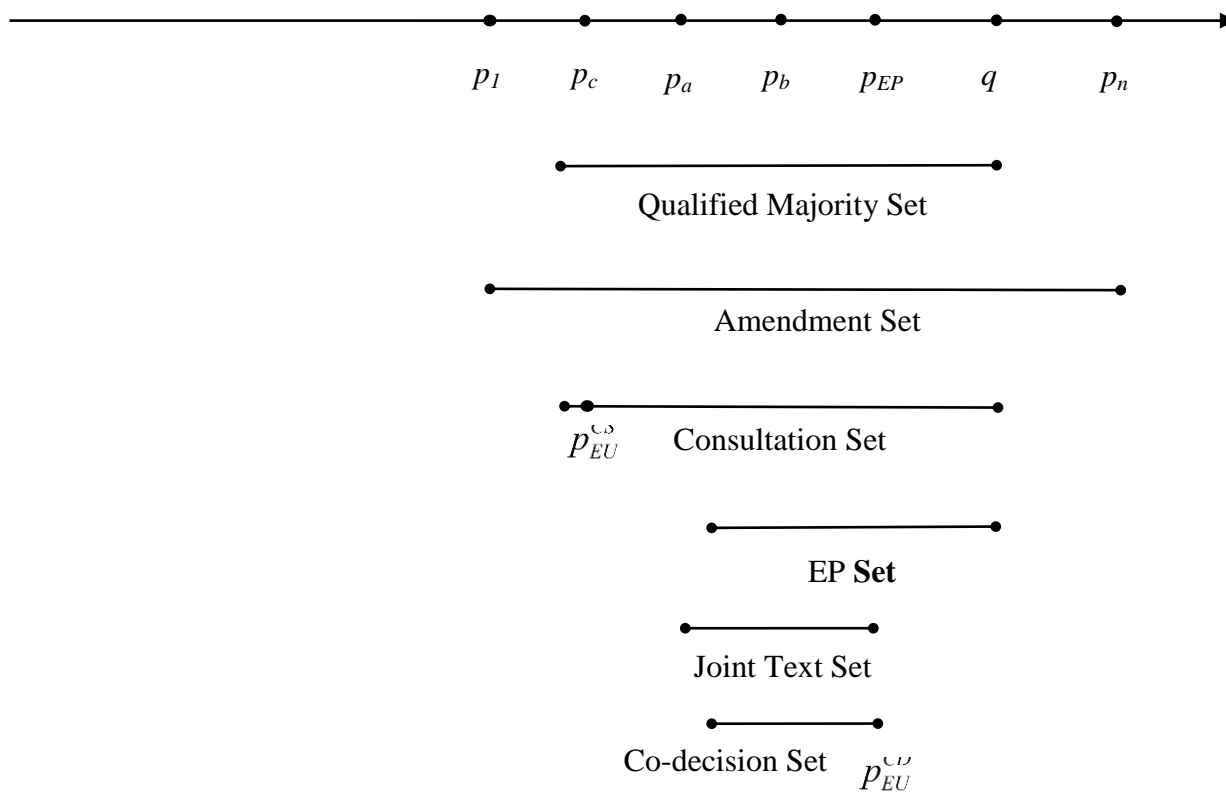
**Figure 1: The Sequence of Events under the Consultation Procedure.**



**Figure 2: The Sequence of Events under the Co-decision Procedure.**

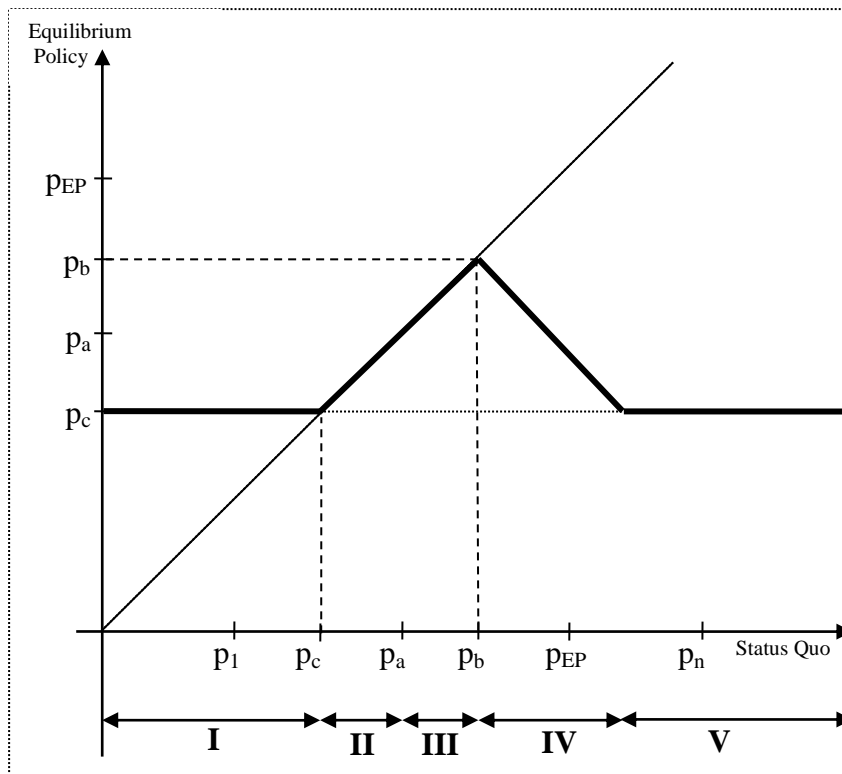


**Figure 3: Policy Making and the Distribution of Preferences.**

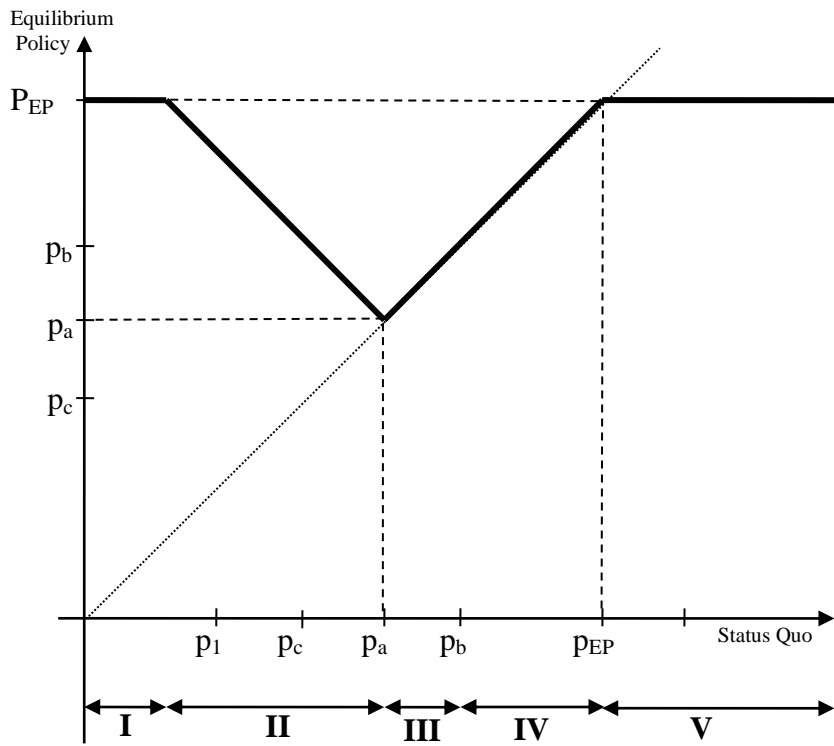




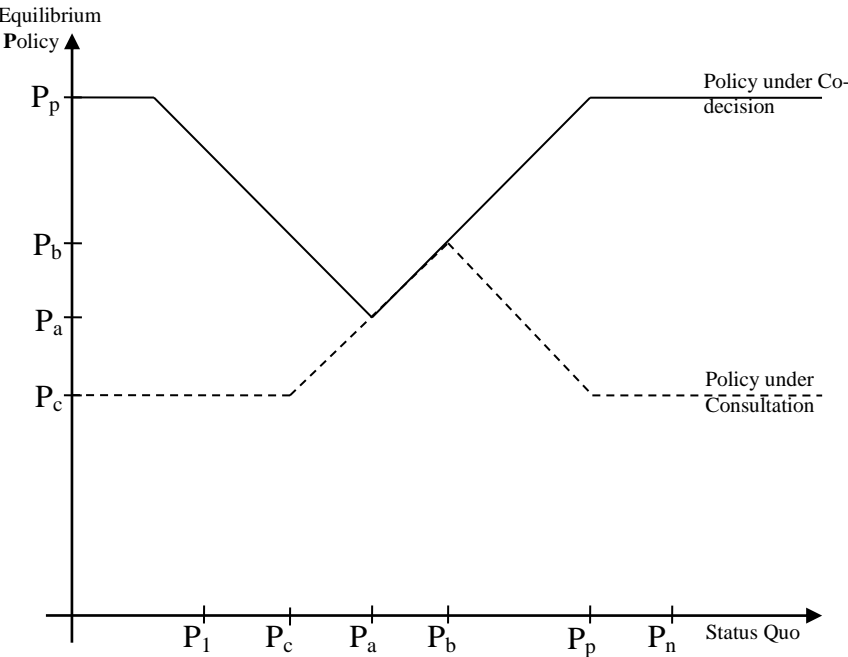
**Figure 4: The Effect of the Location of the Status Quo on EU Policy under Consultation.**



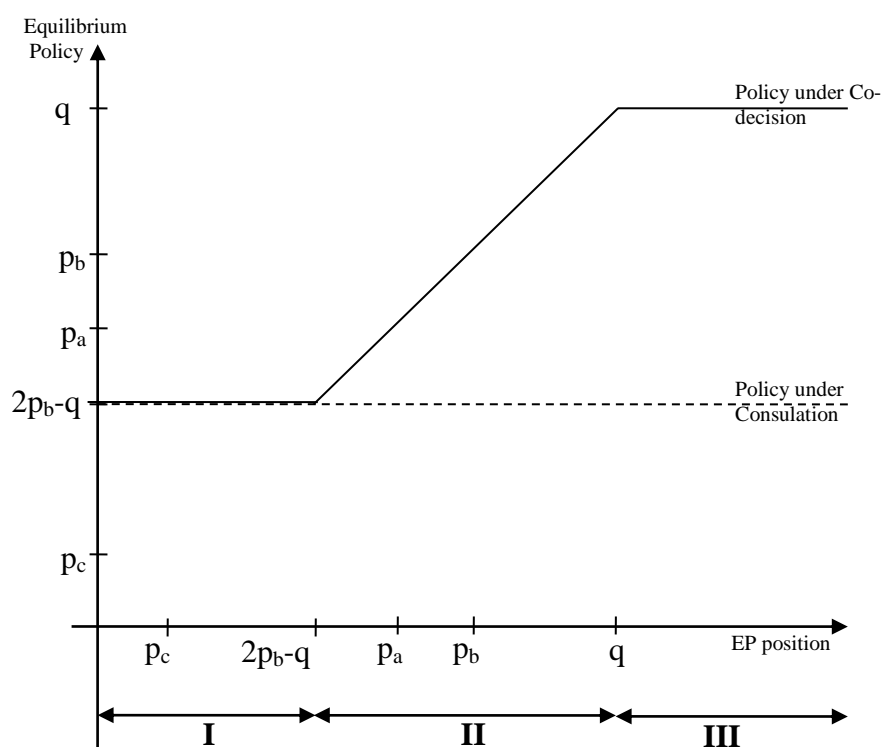
**Figure 5: The Effect of the Location of the Status Quo on EU Policy under Co-decision.**



**Figure 6: A Comparison between Consultation and Co-decision.**



**Figure 7: The Impact of EP Preferences on CAP Reform.**



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<sup>1</sup> The Lisbon Treaty renamed the co-decision procedure. It is now called the ordinary legislative procedure.

<sup>2</sup> The Commission can also decide to include MS amendments in its proposal, rather than have the Council vote on them.

<sup>3</sup> The Amsterdam Treaty also increased the EP's powers under co-decision. Until the adoption of the Amsterdam Treaty the Council had the right to reintroduce the version of the legislation it had approved in the first reading, if the negotiations in the Conciliation Committee broke down.

<sup>4</sup> In the first two readings amendments that are not approved by the Commission require support from a unanimous Council and the EP for adoption. The requirements in the Conciliation Committee are thus less strict and are therefore the ones that matter in the end. The EP can also amend a proposal, in the first and second readings, with the support of the Commission, but in a complete information model the Commission would not amend its own proposal. For these reasons we ignore first and second reading amendments under co-decision.

<sup>5</sup> This assumption does not affect our conclusions, as will be seen below.

<sup>6</sup> Our conclusions extend to multidimensional settings. See Crombez (2000).

<sup>7</sup> In other words Black's median voter theorem applies (Black 1958).

<sup>8</sup> A MS's number of votes depends on the size of its population. The largest MS, Germany, has 29 votes; the smallest, Cyprus, has two. A qualified majority also requires the support of a majority of the MSs, and these MSs need to represent at least 62 percent of EU population. For simplicity we ignore these two requirements in this paper. The qualified majority rule will change in 2014.

<sup>9</sup> If the Commission had been to the left of MS  $1$  gridlock between the Commission and a qualified majority in the Council could be broken by a unanimous Council. The gridlock interval is then  $[p_1, p_b]$ . A similar reasoning applies if the Commission is to the right of MS  $n$ .

<sup>10</sup> The Commission is sometimes considered to have gatekeeping rights. That is, it is sometimes assumed that the Commission can refuse to make a proposal. In that case there is also gridlock under co-decision when the Commission and a qualified majority disagree on the direction of change. The gridlock interval is then always (weakly) larger under co-decision than under consultation. See Crombez, et al. (2006) for a discussion of gatekeeping rights in the EU. Consistent with their conclusions we do not assume that the Commission has gatekeeping rights in this paper.

<sup>11</sup> If MS  $b$  had all the bargaining powers, for example, interval I would stretch past MS  $b$ 's ideal policy, up to the policy  $(p_b+q)/2$ , the midpoint between the status quo and MS  $b$ 's ideal policy. MS  $b$ 's ideal policy would then be the equilibrium policy under co-decision in this interval. In the interval between the policy  $(p_b+q)/2$  and  $q$ , the equilibrium policy would be the policy  $2p_b-q$  that makes the EP indifferent to the status quo. In interval III the equilibrium policy would be the status quo.

<sup>12</sup> In particular a Commission with ideal policy in interval II would successfully propose its own ideal policy under consultation. A Commission with ideal policy in interval III would propose the status quo. We assume here that the most left MS is located left of policy  $2p_b-q$  and that the most right MS is located right of the status quo.